

REMARKS

Claims 6, 9-20, 26, 27, 33 and 34 are pending in the application. This amendment amends claim 12 to more positively recite applicant's patentably novel invention. Claims 6, 9-11, 13-20, 26, 27, 33 and 34 are allowed.

Claim 12 is rejected under 35 U.S.C. 251 as being an improper recapture of broadened claimed subject matter surrendered in the application for the patent upon which the present reissue is based. The Office Action alleges that the amendment filed December 17, 1997 (incorrectly stated in the Office Action as January 6, 1998 (see Interview Summary mailed April 19, 2011)) added the limitation "the first and the second legs are spaced from and out of contact with one another" and argued the limitation as a patentable distinction, and that this limitation is not recited in independent claim 12.

Applicant through an oversight did not amend claim 12 to include the limitation. To eliminate this issue, claim 12 is amended to include the limitation (see attachment titled "PRESENTATION OF CLAIMS PURSUANT TO 37 C.F.R. 1.173(c)"). Support for the amendment to claim 12 is found, among other places, in originally filed claim 12 of this application, which is a reissue application of U.S. Patent No. 5,813,191.

Based on the foregoing, applicant respectfully requests admission of the amendment to, and consideration of, claim 12; withdrawal of the rejection of claim 12 under 35 U.S.C. 251, and allowance of claim 12.

Applicant respectfully requests admission and consideration of this amendment because this amendment does not require any additional searching, and places the application in condition for allowance.

This Amendment represents a sincere effort to place this application in condition for allowance. In the event issues remain, the Examiner is invited to call Mr. Andrew Siminerio at 412-434-4645, or the undersigned to discuss those issues before further action on the case is taken.

Respectfully submitted,

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PRESENTATION OF CLAIMS PURSUANT TO 37 C.F.R. 1.173(c)

Claims 1-5 were cancelled without prejudice by one or more previously filed amendments.

Claim 6 is pending in the application and was amended by one or more previously filed amendments.

Claims 7 and 8 were cancelled without prejudice by one or more previously filed amendments.

Claims 9-11 are pending in the application and were amended by one or more previously filed amendments.

Claim 12 is amended by this amendment. The underlined portion of Claim 12 presented below identifies the amendments made by this Amendment to claim 12 of the Amendment filed May 31, 2011.

Claim 12 (Amended). An elongated spacer stock used in the manufacture of a spacer frame to separate sheets of an insulating unit, the spacer stock comprising:

- an elongated base, wherein the base has a "T" shaped cross section;
- a first elongated leg having a first member and a second member joined together to have a generally U-shaped cross section;

- a second elongated leg having a first member and a second member joined together to have a generally U-shaped cross section;

- wherein the first members of the first and second legs are joined to the base to provide the spacer stock with a generally U-shaped cross section with an open end of the U formed by the first and second legs and the base open in a first direction, the U-shaped cross section of the first leg open in a second direction, and the U-shaped cross section of the second leg open in the second direction with the first and second directions opposite to one another;

- wherein the first and the second legs are spaced from one another and

out of contact with one another;

wherein the first and second members of the first leg are spaced from and out of contact with one another; the first and second members of the second leg are spaced from and out of contact with one another; the second member of the first and the second legs are spaced from one another, and the first and second legs are connected to one another only by the base to provide only one thermal conducting path from the first leg to the second leg, and

wherein the "T" shaped cross section of the base extends upwardly between the first and second legs, and is spaced from and out of contact with the first and second legs.

Claims 13-20 are pending in the application and were amended by one or more previously filed amendments.

Claims 21-25 were cancelled without prejudice by one or more previously filed amendments.

Claim 26 is pending in the application and was amended by one or more previously filed amendments.

Claim 27 is pending in the application and is original claim 27 of U.S. Patent No. 5,813,191.

Claims 28-32 were cancelled without prejudice by one or more previously filed amendments.

Claim 33 is pending in the application and was amended by one or more previously filed amendments.

Claim 34 is pending in the application and is original claim 34 of U.S. Patent No. 5,813,191.

Claims 35-55 were cancelled without prejudice by one or more previously filed amendments.